International Criminal Court ICC-ASP/1/L.2

Assembly of States Parties

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Election of judges

Proposal submitted by Brazil, Chile, Costa Rica, Ecuador, Mexico, Nauru, Nigeria, Mongolia, Paraguay, Peru, Republic of Korea, Trinidad and Tobago and Uruguay

The Assembly of States Parties,

Bearing in mind the provisions of the Rome Statute of the International Criminal Court,

Mindful of the rules of Procedure of the Assembly of State Parties,

Convinced of the need to fully implement to provisions of article 36 of the Rome Statute,

Approves the following procedure for the election of the judges of the International Criminal Court:

1. The persons elected to the Court shall be the 18 candidates who obtain the highest number of votes and a two-thirds majority of the States Parties present and voting. However, no more than 13 candidates from list A and no more than 9 candidates from list B shall be considered elected.

2 States Parties shall, in the election of judges, take into account the need for the representation of the principal legal systems of the world, equitable geographical representation and a fair representation of female and male judges. They shall take into account the need to include judges with legal expertise on specific issues, including, but not limited to, violence against women and children.

3. Each State Party shall vote for a maximum number of 18 candidates, whereby it shall observe the following minimum voting requirements:

(a) Each State Party shall vote for at least 9 candidates from list A and at least 5 candidates from list B;

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(b) Each State Party shall vote for at least:

- 3 candidates from the Group of African States,
- 3 candidates from the Group of Latin American and Caribbean States,
- 3 candidates from the Group of Western European and other States,
- 3 candidates from the Group of Asian States, and
- 3 candidates from the Group of Eastern European States.

For the purposes of the first election and on an exceptional basis, if the number of States Parties of any given regional group is less than three eighteenths of the total number of States Parties to the Rome Statute at that moment, the minimum voting requirement for that group shall be adjusted by subtracting 1.

If the number of candidates from a regional group is not at least one more than the respective minimum voting requirement, this requirement shall be equal to one less than the number of candidates from that region;

(c) Each State Party shall vote for at least six candidates from each gender. If the number of candidates from one gender is less than eight, the minimum voting requirement for that gender shall be equal to two less than the number of candidates for that gender.

4. If, after the first ballot, fewer than 18 candidates are elected, the maximum number of votes by a State Party, which is 18 for the first ballot, shall be reduced, for each subsequent ballot, by subtracting the number of elected candidates.

5. The minimum voting requirements as reflected in paragraph 3 shall apply, mutatis mutandis, for subsequent elections.

6. If, after the first ballot, fewer than 18 candidates are elected, the following adjustments shall apply to subsequent ballots:

(a) The minimum voting requirement referred to in lists A and B shall be adjusted, list by list, by subtracting the number of elected candidates;

(b) The minimum regional voting requirement shall be adjusted, group by group, by subtracting the number of elected candidates;

(c) The minimum gender voting requirement shall be adjusted, gender by gender, by subtracting the number of elected candidates.

7. Each minimum voting requirement shall be adjusted until that requirement can no longer be met, whereupon the use of that requirement shall be discontinued. If an adjusted voting requirement can be met individually, but not jointly, the use of all regional and gender voting requirements shall be discontinued. If following four ballots 18 judges still have not yet been elected, these minimum voting requirements shall be discontinued.

8. Only ballot papers observing the minimum voting requirements shall be valid. If a State Party fulfils the minimum requirements using less than the maximum number of votes allowed for that ballot, it may abstain in voting for the remaining candidates.

9. The President of the Assembly of States Parties shall be responsible for the election procedure, including the determination, adjustment or discontinuation of the minimum voting requirements.

10. Ballot papers shall be organized in a manner facilitating such an election process. The minimum voting requirements, adjusted requirements and the discontinuation of any requirements shall be clearly indicated on the ballot papers. Before the day of the election, the President shall distribute to all States Parties copies of the instructions and samples of the ballot papers. On the day of the election, clear instructions and sufficient time shall be given for each ballot. In each ballot, before the voting process is concluded, the President shall repeat the instructions and the minimum requirements to allow each delegation to verify that its vote meets those requirements.